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October 10, 2000

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Magalie R. Salas, Secretary
Federal Communications Commission
The Portals, 445 Twelfth Street S.W., Room TW-A325
Washington, D.C. 20554

RE: In the Matter of Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas
CC Docket No. 96-45

Dear Ms. Salas:

Enclosed for filing are the signed original and nine copies of the Comments of the Washington Utilities and Transportation Commission in the above-referenced docket. This document was electronically filed with the ECFS site this date.

Please contact Tom Wilson at (360)-664-1293, *tomw@wutc.wa.gov,* if you have any questions about this filing.

Thank you for your assistance.

Sincerely,

JEFFREY D. GOLTZ
Senior Assistant Attorney General

JDG:kll
Enclosure

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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service;	)	
Promoting Deployment and Subscribership in	)	CC Docket No. 96-45
Unserved and Underserved Areas, Including	)	
Tribal and Insular Areas	)	
	)	

Comments of the
Washington Utilities and Transportation Commission
on Enhanced Lifeline

The Washington Utilities and Transportation Commission (WUTC) commends the Federal Communications Commission (Commission) for taking the initiative to increase telephone subscribership on reservations and among Native Americans. Washington State has 28 federally recognized tribes and the enhanced Lifeline and Link Up support will be beneficial to the low-income members of those tribes. We offer our comments in response to the August 31 Further Notice of Proposed Rulemaking, In the Matter of Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, CC Docket No. 96-45 (FCC 00-332) (Released August 31, 2000).

I. General Comments

On August 30, 2000, the WUTC approved 24 tariffs intended to bring eligible telecommunications carriers (ETCs) into compliance with the Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed rulemaking, CC Docket No. 96-45 (FCC 00-208) (Released June 30, 2000). The ETCs in Washington worked hard to take the actions necessary to permit them to certify to the Universal Service Administrative Company (USAC) that they were in compliance with the requirements of the Twelfth Order. To the extent any of the changes announced on August 31, 2000, were related to carrier ability to comply with the Twelfth Order, the efforts of ETCs in Washington demonstrate compliance can be achieved.

A. Benefits Should Continue to Extend to All Low-Income Consumers

One reason why compliance was possible is that the Commission understood that it would be a difficult administrative burden for ETCs if they were required to differentiate between two or more groups of low-income consumers in the same geographic location, with one receiving an enhanced benefit and another not receiving it. The decision to extend the enhancement to all low-income consumers was an appropriate decision on June 30, 2000, and remains so today.

Unfortunately, the August 31 decision to restrict the enhancement to those low-income consumers living on reservations may present problems of administration. ETCs generally do not keep records of who resides on a reservation and who does not. Exchange boundaries and reservation boundaries do not tend to be the same. To the extent ETCs must distinguish between residents of an exchange who reside inside a reservation and those who reside outside a reservation, there will be an added expense for most ETCs. We offer below a suggestion to address this administrative cost. (See part II.A, below).

B. Simple, Quick Consumer Qualification Necessary

The inclusion of four new programs[1] as proxies to determine eligibility for the federal programs will only increase telephone subscribership if the "approach friction"[2] created by the consumer qualification are reduced or eliminated. The requirement that the ETC obtain the consumer's signature on a document certifying under penalty of perjury that the consumer

[1] The new programs are Bureau of Indian Affairs (BIA) general assistance, tribally administered Temporary Assistance for Needy Families, Head Start (only those meeting its income qualifying standard), and the National School Lunch Program's free lunch program.

[2] "Approach friction" is a term used by some social service providers to encompass things that may make otherwise qualified individuals not pursue a benefit. These may be stigma, many steps or actions taking a great deal of time or effort, inconvenience in the process of applying or receiving the benefit, and many other things that individually may not be a discouragement to participation but collectively result in lack of participation by those who would qualify.

receives benefits from at least one of the four listed programs will reduce participation.[3] Obtaining a signature under penalty of perjury will be time consuming and tend to drive down participation. The Commission should work with the Bureau of Indian Affairs and ETCs to develop a rapid means of determining eligibility, if not simply provide the benefits to all eligible low-income consumers living on reservations.[4]

Washington State has made it possible for ETCs to check quickly to determine the eligibility of customers for Lifeline, Link Up, and the state Telephone Assistance Program. When a customer states he or she is eligible for one of the programs, the ETC puts the person on hold and makes a call to the state program, which checks electronic data bases to confirm eligibility. It takes about one minute, and 99% of all confirmations are completed in this manner. Providing for quick verification of those on Bureau of Indian Affairs (BIA) general assistance, tribally administered Temporary Assistance for Needy Families, Head Start (only those meeting its income qualifying standard), and National School Lunch Program's free lunch program would eliminate the need for paper forms and the off-putting requirement that eligible persons restate their already proven qualification under penalty of perjury.[5]

C. Low-Income Consumer Choice

The issue of competitive choice for low-income consumers is not addressed by the Twelfth Order or by the Order instituting the stay. In the Commission's initial universal service

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[3] See 47 C.F.R. § 54.409(c).

[4] Some would suggest that a simpler, quicker process is advised because the qualifying customers may not be the most educated or sophisticated consumers. The better view is that low-income consumers should not be expected to be any more tolerant of inefficiency and redundancy-governmental or corporate-than any other consumers.

[5] For an example of the myriad problems with paper forms and certification requirements that duplicate in part the effort undertaken when an individual is granted benefits from an income support or similar program, see In the Matter of the Application of the Ohio Bell Telephone Company for Approval of an Alternative Form of Regulation, Case No. 93-487-TP-ALT, Public Utilities Commission of Ohio (December 30, 1998). PUCO ordered automatic enrollment and on-line verification in order to "eliminate the need for submission of documentation, which is one of the significant barriers to enrollment." Opinion and Order at 33.

Order, it chose to link Lifeline and Link Up to ETC status.[6] The expressed concern was that in certain regions of the nation, carriers might not offer Lifeline service unless compelled to do so.[7] Many carriers do not offer Lifeline, but it is not broad regions within the nation where carriers do not offer Lifeline, but areas within states. In urban and suburban areas served by an ever-increasing number of competitive local exchange carriers (CLECs), there is only one carrier offering Lifeline, the incumbent. As a result, in most every area the ILEC alone offers Lifeline and Link Up, and one result is that low-income consumers do not have competitive choices.

We recommend the Commission use its general authority, the original and continuing basis for its Lifeline and Link Up programs, and require all carriers, whatever the technology,[8] to participate in the programs. At the same time, the Commission should remove the link between these programs and ETC status. The result will be a competitively neutral program with respect to both carriers and customers.

II Responses to Questions Posed in the FNPRM

A. How Should the Commission Define Geographic Areas That Are Adjacent to Reservations or Are Otherwise a Part of the Reservation's Community of Interest, in a Manner Consistent with the Goal of Targeting Enhanced Lifeline and Link Up?

If the Commission is going to abandon the "near reservation" designations, it should consider extending the enhanced Lifeline and Link Up benefits to all low-income consumers residing in exchanges that contain any portion or the entirety of a tribal reservation. To the extent the Commission desires to use geographic designations as a proxy for making individual determinations about who is impoverished and living in an isolated and underserved region, the use of exchanges that contain some portion of a reservation is a reasonable choice.

The use of exchange boundaries also has the benefit of making administration easier for ETCs. Because exchange boundaries and reservation boundaries are rarely the same, extending

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[6] Report and Order, In the Matter of State-Federal Joint Board on Universal Service, CC Docket No. 96-45, ¶ 342 (Released May 8, 1997).

[7] Id. at ¶ 347.

[8] United States Cellular is an ETC in Washington. It is preparing a Lifeline offering for approval by the Universal Service Administrative Company.

the program to entire exchanges means carriers can apply the additional discount with less modification to billing systems than may be required to determine which resident of an exchange is on a reservation and which is not.

B. Are There Alternative Ways of Defining Geographic Areas near Reservations?

As suggested in II.A above, one alternative is to provided the enhanced discounts in the entirety of any exchange that contains all or any portion of a tribal reservation.

C. Generally, What Is the Best Way to Achieve the Goal of Serving Geographically Isolated, Impoverished Areas Characterized by Low Subscribership?

The best way to achieve the goal of serving more low-income consumers is to improve the outreach to individuals in these circumstances and to streamline the process for enrolling in federal programs that provide discounts to low-income telecommunications customers.

The Commission's amendments to 47 C.F.R. § 54.405(b) and 47 C.F.R. § 54.411(d), requiring ETCs to publicize Lifeline and Link Up in a manner reasonably designed to reach those likely to qualify for the programs, represent important steps to improve outreach. Publicity alone, however, is not enough. The Commission should encourage ETCs to create relationships with tribes, community action agencies, and similar organizations that can assist in ushering qualified consumers into the programs. The Commission should consider rewarding carriers that establish relationships of this nature and succeed in meeting targets for enrollment in federal programs.[9]

III 47 C.F.R. § 54.401(d) Should Be Revised

The last sentence in 47 C.F.R. § 54.401(d) should be revised to remove the possibility that a carrier that does not comply with Lifeline program requirements would not have to provide discounts. While ETCs in general have offered the Lifeline discounts as required, this subsection would seem to permit an ETC to escape the obligation that its competitors have accepted.

"Lifeline assistance shall be made available to qualifying low-income consumers

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[9] In the future, it might be appropriate to have sanctions for ETCs that have very low enrollment, but that should not be instituted unless other measures fail.

as soon as the Administrator certifies that the carrier's Lifeline plan satisfies the criteria set out in this subpart."

47 C.F.R. § 54.401(d).

As written, an ETC that is not certified by USAC because it is out of compliance need not offer the discount, and therefore will suffer no harm through loss of revenue. The vast majority of ETCs comply with program requirements, but the rule, arguably, could result in circumstances where being out of compliance would be a shield against having to provide the discounts. Because over 15 ETCs in our state alone have included this sentence from the Commission's rule in their tariffs, the Commission should review the purpose served by this sentence in the entire context of the Lifeline program and all applicable rules.

Respectfully submitted this 10th day of October, 2000.

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Marilyn Showalter, Chairwoman

Richard Hemstad, Commissioner

William R. Gillis, Commissioner